Little Hope Mining, Inc. *and* United Mine Workers of America. Case 9–CA–31730

September 27, 1994

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS STEPHENS AND COHEN

Upon a charge filed by the Union on March 29, 1994, the General Counsel of the National Labor Relations Board issued a complaint on May 10, 1994, against Little Hope Mining, Inc., the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.

On September 1, 1994, the General Counsel filed a Motion for Summary Judgment with the Board. On September 2, 1994, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated August 9, 1994, notified the Respondent that unless an answer were received by August 18, 1994, a motion for summary judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation, has been engaged as a contractor in surface mine operations in Logan County, West Virginia. During the 12-month period preceding issuance of the complaint, the Respondent purchased and received at its Logan, West Virginia facility goods valued in excess of $50,000 from Simkins Mine Supply, Inc. located within the State of West Virginia, which had, in turn, received those identical goods directly from points outside the State of West Virginia. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The following employees of Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All employees of [Respondent] engaged in the production of coal, including removal of overburden and coal waste, preparation, processing, and cleaning of coal and transportation of coal (except by waterway or rail not owned by [Respondent]), repair and maintenance work normally performed at the mine site or at a central shop[s] of [Respondent] and maintenance of gob piles and mine roads, and work of the type customarily related to all of the above at the coal lands, coal producing and coal preparation facilities owned or operated by [Respondent], excluding all coal inspectors, weigh bosses at mines where men are paid by ton, watchmen, clerks, engineering and technical employees and all professional employees, guards and supervisors as defined in the Act.

Since at least 1988, and at all material times, the Union has been the designated exclusive collective-bargaining representative of the unit and since that date has been recognized as such representative by Respondent. This recognition has been embodied in a collective-bargaining agreement (the National Bituminous Coal Wage Agreement), which was effective from February 1, 1988, to February 1, 1993.

At all times since at least 1988, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

About January 1994, the Respondent changed the terms and conditions of employment of the employees in the unit by failing to pay medical insurance premiums, a mandatory subject of collective bargaining, without prior notice to the Union and without affording the Union an opportunity to bargain with respect thereto and the effects.

CONCLUSIONS OF LAW

By the acts and conduct described above, the Respondent has failed and refused to bargain collectively with the exclusive collective-bargaining representative of its employees, and has thereby engaged in unfair labor practices affecting commerce within the meaning

the following unit by failing to pay medical insurance premiums on behalf of unit employees:

> All employees of Little Hope Mining, Inc. engaged in the production of coal, including removal of overburden and coal waste, preparation, processing, and cleaning of coal and transportation of coal (except by waterway or rail not owned by Little Hope Mining, Inc.), repair and maintenance work normally performed at the mine site or at a central shop[s] of Little Hope Mining, Inc. and maintenance of gob piles and mine roads, and work of the type customarily related to all of the above at the coal lands, coal producing and coal preparation facilities owned or operated by Little Hope Mining, Inc., excluding all coal inspectors, weigh bosses at mines where men are paid by ton, watchmen, clerks, engineering and technical employees and all professional employees, guards and supervisors as defined in the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL restore the unit employees' medical insurance coverage and WE WILL make the unit employees whole by reimbursing them for any expenses ensuing from our unlawful failure, since January 1994, to pay medical insurance premiums, plus interest.

LITTLE HOPE MINING, INC.